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BEFORE THE ARIZONA CORPORATION C

COMMISSIONERS

BOB STUMP - Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

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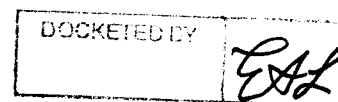
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AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

OCT 01 2013



IN THE MATTER OF THE FORMAL
COMPLAINT OF DAVID SISNEROS,

COMPLAINANT,

vs.

TUCSON ELECTRIC POWER COMPANY,

RESPONDENT.

DOCKET NO. E-01933A-13-0283

PROCEDURAL ORDER

BY THE COMMISSION:

On August 28, 2013, David Sisneros ("Complainant") filed a formal complaint with the Arizona Corporation Commission ("Commission") against Tucson Electric Power Company ("TEP"). In his Complaint, David Sisneros asserted that TEP is improperly attempting to collect money from him that is actually a debt owed by his father and mother, Dino and Melissa Sisneros. The Complainant claimed that he is only a tenant at the service address and that Dino Sisneros is the landlord; therefore, the overdue TEP debt belongs to him. The Complainant seeks to have TEP remove Dino Sisneros' debt from the Complainant's account. The Complaint also contains a handwritten note in different hand writing asserting additional claims against TEP. It concludes by stating: "All rights reserved," and the signature is purportedly that of Dino Sisneros.

On September 24, 2013, TEP filed its Answer to Formal Complaint and Motion to Dismiss. In its Answer, TEP admitted that it attached \$7,985.52 of prior uncollected debt of Dino and Melissa Sisneros to the Complainant's account when the Company learned that Dino and Melissa Cisneros were living in the same house as the Complainant, but alleged its Commission-approved Rules and Regulations permit this action. TEP challenged the Complainant's claim that Dino Sisneros was the premise's landlord, reporting that the Company had spoken with the actual property owner who advised TEP that Dino and Melissa Sisneros were living at the house with the Complainant. As such,

TEP claimed that no landlord/tenant relationship exists between David Sisneros and Dino or Melissa Sisneros. TEP contended that David Sisneros filed the formal complaint in an attempt to delay an impending service disconnection.

Motion to Dismiss

In its Motion to Dismiss, TEP asserts that the Complaint fails to allege “a violation of any provision of law or any order or rule of the commission,” pursuant to A.R.S. § 40-246(A) and the Complaint should be dismissed. However, TEP states that, “[w]hile the Complainant did not specifically allege a violation of any specific rule or law, the Company believes David Sisneros in his complaint is attempting to allege that TEP violated its Rules and Regulations § 12.G.1.b...”¹ relating to landlord/tenant liability for prior debt. TEP interpreted David Sisneros’ underlying claim as an attempt to charge TEP with unlawfully attaching Dino and Melissa Sisneros’ prior debt to the Complainant’s account, but argued that its Rules and Regulations allow it do to so.

TEP also observed that some of the rules and laws referenced on the Complaint were written by Dino Sisneros—not the Complainant—and the Company asserted that that portion of the Complaint should be disregarded.

Resolution

Because David Sisneros claimed that TEP has violated the Company’s Commission-approved Rules and Regulations relating to debts of the landlord and to the placement of Dino and Melissa Sisneros’ debt on David Sisneros’ account, he has alleged violations of provisions of law, orders and rules of the Commission. The issues raised by David Sisneros in the portion of the Complaint written by him are within the Commission’s jurisdiction and there are questions of fact still at issue. Accordingly, TEP’s Motion to Dismiss should be denied.

In Exhibit 7 to TEP’s Answer and Motion to Dismiss, a portion of an email dated Monday, August 26, 2013, from TEP to the Commission states as follows: “On July 22, 2013, TEP received Arizona Corporation Commission Complaint No. 111739 filed under the name David Sisneros. David Sisneros communicated to Ms. Roll that this was his father’s (Dino Sisneros) issue and to only

¹ TEP’s Answer and Motion to Dismiss, page 5.

1 deal with his father.”

2 The Commission’s Rule A.A.C. R14-3-106.K provides that motions shall conform insofar as
3 practicable with the Rules of Civil Procedure for the Superior Court in the state of Arizona. Rule
4 11(a) of the Arizona Rules of Civil Procedure provides that every pleading or motion should either be
5 signed by an attorney representing the party, or if the party is not represented by counsel, by that
6 party himself. In addition, Rule 31 of the Rules of the Arizona Supreme Court and A.R.S. §40-243
7 relating to the practice of law provide that only a complainant or an attorney representing a
8 complainant may appear in proceedings before the Commission.

9 The portions of the Complaint written and signed by Dino Sisneros must be stricken because
10 David Sisneros is the Complainant in this matter—not Dino or Melissa Sisneros. Further, unless
11 Dino Sisneros is an attorney licensed to practice in Arizona, he may not represent the Complainant
12 before the Commission. David Sisneros must either represent himself or hire an attorney to represent
13 him. The Complainant may call Dino and Melissa Sisneros as witnesses during the hearing if he
14 wishes.

15 IT IS THEREFORE ORDERED that TEP’s Motion to Dismiss is denied.

16 IT IS FURTHER ORDERED that any portions of the Complaint not written by David
17 Sisneros are stricken.

18 IT IS FURTHER ORDERED that if David Sisneros wishes to amend the Complaint, he
19 must do so no later than October 11, 2013.

20 IT IS FURTHER ORDERED that the hearing in this matter shall begin November 20, 2013,
21 at 10:00 a.m., in Room 222, 400 West Congress Street, Tucson, Arizona.

22 IT IS FURTHER ORDERED that the Complainant shall file with Docket Control no later
23 than October 25, 2013, a witness list containing a brief description of what issues each witness’
24 testimony will address and shall also file an exhibit list stating the documents the Complainant
25 intends to introduce at the hearing.

26 IT IS FURTHER ORDERED that TEP shall file with Docket Control no later than
27 November 8, 2013, its witness list containing a brief description of what issues the witness’
28

1 testimony will address and shall also file an exhibit list stating the documents TEP intends to
2 introduce at the hearing.

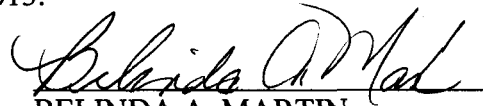
3 IT IS FURTHER ORDERED that Staff does not need to participate as a party or provide a
4 witness in this matter at this time. Staff may be requested to provide testimony at a later time if
5 deemed necessary.

6 IT IS FURTHER ORDERED that the *Ex Parte* Rule (A.A.C. R14-3-113-Unauthorized
7 Communications) applies to this proceeding as the matter is set for public hearing.

8 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the
9 Rules of the Arizona Supreme Court and A.R.S. §40-243 with respect to practice of law and
10 admission *pro hac vice*.

11 IT IS FURTHER ORDERED that that the Administrative Law Judge may rescind, alter,
12 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by
13 ruling at hearing.

14 DATED this 30th day of September, 2013.


BELINDA A. MARTIN
ADMINISTRATIVE LAW JUDGE

17 Copies of the foregoing mailed
18 this 30th day of September, 2013, to:

19 David Sisneros
20 2333 West Sumaya Place
Tucson, AZ 85710

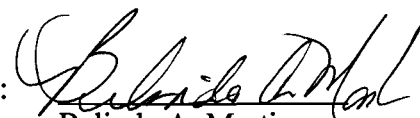
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By: 
Belinda A. Martin